

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

SEPTEMBER 21, 2004

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, September 21, 2004 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 8:30 a.m. by Chairman Arthur Slattery

Present: Commissioners Arthur Slattery, Robert Stephen, Pauline Ikawa, Barbara Heath, Executive Director Beth Emmons, and Investigator Ann Flanagan.

- I. Motion by Commissioner Heath, seconded by Commissioner Stephen, to approve and accept the minutes of the Commission meeting held on August 17, 2004.

II. **APPOINTMENTS**

8:30 a.m. - Equivalency Interviews - None

8:55 a.m. – ROBERT GUILMETTE appeared before the Commission on February 17, 2004 to explain a previous legal incident prior to applying for an original salesperson's license. At this meeting, the Commission denied Mr. Guilmette's request, due to the fact that he was on probation at the time. The Commission instructed Mr. Guilmette to request to re-appear before the Commission to discuss the matter once he was released from probation. After review and discussion, and on a motion by Commissioner Heath, seconded by Commissioner Stephen, the Commission decided to allow Mr. Guilmette to apply for his original salesperson's license, based on the fact that Mr. Guilmette has been released from probation and has fulfilled all of his obligations to the state regarding his previous legal incident, and has had no further legal incidences.

9:05 a.m. – LLOYD E. PICKERING, JR. appeared before the Commission to explain a previous legal incident prior to applying for an original salesperson's license. After review and discussion, and on motion by Commissioner Stephen, seconded by Commissioner Heath, the Commission approved Mr. Pickering to apply for his original salesperson's license based on the fact that Mr. Pickering provided sufficient evidence that he had taken the necessary steps to resolve the incident and that there have been no further legal incidences. The Commission's approval is contingent upon receipt of a letter from his broker acknowledging that he/she is aware of Mr. Pickering's previous legal incident.

9:15 a.m. – ROBERT WALKER appeared before the Commission to explain a previous legal incident prior to applying for an original salesperson's license. After review and discussion, and on a motion by Commissioner Stephen, seconded by Commissioner Heath, the Commission approved Mr. Walker to apply for his original salesperson's license based on the fact that he has had no further legal incidences. This approval is contingent upon the receipt of a letter from his broker acknowledging that he/she is aware of Mr. Walker's prior legal incidences. Commissioner Ikawa was opposed to the decision.

10:45 a.m. - WALTER BRESSLER of Coldwell Banker Brain Moses Realty and DAVID MALLOY of Cash Rewards, Inc. appeared before the Commission to request the Commission to consider adding charities to RSA 331-A:4, Exempt Class. DAVID MALLOY of Cash Rewards, Inc. explained to the Commission how the Cash Rewards program works. The licensee will re-direct their marketing dollars in to a trust fund with Cash Rewards, Inc., and the money in the fund will then be invested in U.S. Securities Bonds, etc., on behalf of the client. The licensee will provide to the client at the closing, a certificate which the client is instructed to sign and send in the certificate within a specified period of time. As long as the client follows the instructions provided and claims the money upon 3 years and one month from the date of the closing, the client will be disbursed the money invested, plus any interest on the investment. After review and discussion, the Commission decided that this program does not fall under the definition of the Exempt Class. The money from the licensee is first given to a third party to the transaction, rather than the principal to the transaction, and legislation would be necessary to include this type of program in RSA 331-A:4 Exempt Class.

III. DISCUSSION

FILE NO. 2003-05-06 – the Complainant, through his attorney, submitted a request to withdraw Complaint File No. 2003-05-06 based on the resolution of the parties differences. After review and discussion, the Commission unanimously decided to approve the withdrawal of the matter. The parties to the Complaint to be so notified.

FILE NO. 2004-019 – the Complainant submitted a request to withdraw Complaint File No. 2004-019. After review and discussion, the Commission tabled it's decision of the matter for further review.

MATTHEW BEDARD requests clarification on referral compensation where Mr. Bedard would send fliers to past clients who are entered into a drawing to win a cruise if they provide their name or the name of someone they know, along with contact information to buy or sell. After review and discussion, the Commission decided that this practice would not be allowed under RSA 331-A and the rules and regulations of the Commission, because the compensation would be clearly solicited and over \$100, and the compensation would be going to somebody who, at the time, would not be a principal in the transaction. Mr. Bedard to be so notified.

IV. OTHER BUSINESS

1. Tuesday, October 19, 2004, was unanimously approved as the date for the next regular meeting.

2. CASE EVALUATIONS

(a) **FILE NO. 2003-07-02**

Evaluator: Commissioner Slattery

Determination: No violation, should not be heard.

(b) **FILE NO. 2004-010**

Evaluator: Commissioner Heath
Determination: Tabled for further information.

(c) **FILE NO. 2004-018**

Evaluator: Commissioner Heath

The above determinations were unanimously approved by the Commission.

III. **HEARING 9:49 AM**

FILE NO. 2003-01-01 KATHLEEN MCCLURE VS BONNIE WILSON-BOWES

Evaluator: Commissioner Slattery

The following persons were present at the hearing:

Commission: Commissioners Robert Stephen, Pauline Ikawa, Barbara Heath, Executive Director Beth Emmons and Investigator Ann Flanagan.

Stenographer: Camille M. Palladino-Duffy

Nolin, McKenna and Duffy Reporting
Associates
P.O. Box 1658
Dover, NH 03821

Evaluator: Commissioner Slattery evaluated the above matter and abstained from participation in the discussion and resulting decisions. Commissioner LeRoy was not present at the hearing and abstained from participation in the discussion and resulting decisions.

Complainant: Kathleen McClure

35 Jefferson Drive
Hillsboro, NH 03244

Attorney: Pro Se

Witnesses: Randy Pelchat

Respondent: Bonnie Wilson-Bowes

Re/Max Spirit Real Estate
5 Depot Street
Hillsboro, NH 03244

Attorney: Pro Se

Witnesses: None

DECISION: Pending – subject to review of transcripts and exhibits.

IV. **ADJOURNMENT**

Motion by Commissioner Heath, seconded by Commissioner Ikawa to adjourn the meeting. Acting Chairman Stephen adjourned the meeting at 11:25 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara Heath".

Barbara Heath
Clerk